



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 31 2013

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

Dear Tribal Leader:

The U.S. Environmental Protection Agency is considering revisions to regulations that authorize certain uses of polychlorinated biphenyls. In January of 2012, EPA consulted with tribes on this matter under the EPA Policy on Consultation and Coordination with Indian Tribes. Since then the agency has determined that this rulemaking effort may have tribal implications under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." As such, it is my pleasure to invite you to consult and exchange information with the agency about the potential regulatory approaches under consideration and how those approaches may affect tribes.

Section 6(e) of Toxic Substances Control Act bans the manufacture, processing, distribution in commerce, and use of PCBs, except when the EPA determines such uses would pose no unreasonable risk of injury to health or the environment. The EPA promulgated the first of several regulations that established authorizations for certain ongoing uses of PCBs more than 30 years ago. Among other uses, the EPA authorized the use of PCBs in certain electrical equipment, including capacitors and transformers, and in natural gas pipeline systems. These uses were authorized for a variety of reasons, including lack of cost-effective regulatory alternatives that would result in significantly reducing the risks associated with the remaining PCBs. Many of the use authorizations contain restrictions including testing and recordkeeping requirements. The use authorizations are codified in regulation at 40 CFR 761.30.

The agency's current rulemaking objective is to prevent future releases of and related exposures to PCBs by revising the current use authorizations for PCBs. The revisions under consideration are necessary because the circumstances surrounding the promulgation of previous PCB use authorizations have changed. Much of this PCB-containing equipment is beyond its predicted useable life and increasingly prone to breakdowns and spills of PCBs. The agency believes the most effective method of reducing use, distribution, and potential releases of PCBs in the United States is to consider modifications to the regulations that allow their continued use. By reassessing the PCB use authorizations, the EPA can account for present-day economic conditions and technological advances.

The revisions under consideration would primarily impact owners of PCB-containing electrical equipment and natural gas pipeline transmission and distribution companies. To the extent that tribes own PCB-containing electrical equipment, including PCB-containing small capacitors in fluorescent light ballasts, some of the rule options could result in direct tribal compliance costs. Perhaps most significantly, tribes that own school buildings may experience direct compliance costs.

My office will host an Executive Order 13175 consultation briefing about the rulemaking effort on December 12, 2013, from 10:00 am to 11:30 am EST and from 3:00 pm to 4:30 pm EST, in Room 4225 of the William Jefferson Clinton Federal Building East, 1201 Constitution Avenue, N.W., Washington, DC 20004. I hope you can join us to learn more about the issues and our rulemaking considerations.

At the briefing, the EPA will present background information on the rulemaking and will answer any questions you may have. You will have the opportunity to provide your input during the meeting and/or submit any written comments you wish to provide to the EPA within six weeks after the meeting. For now, I have enclosed a fact sheet that highlights the key aspects of PCB regulations under consideration for revision. The participant's call in number for both sessions is: 1-800-380-1073. The conference ID # for the 10:00 session is 98233044 and the conference ID # for the 3:00 session is 98235260. The operator will ask you for the conference ID #. If you plan to attend, or have any question or concerns about this meeting, please contact Tom Simons in the EPA's Office of Chemical Safety and Pollution Prevention at [simons.tom@epa.gov](mailto:simons.tom@epa.gov) or (202) 566-0517.

Sincerely,

A handwritten signature in black ink that reads "Tanya Hodge Mottley". The signature is written in a cursive, flowing style.

Tanya Hodge Mottley, Director  
National Program Chemicals Division  
Office of Pollution Prevention and Toxics

Enclosure

1. PCB Use Authorizations – Tribal Consultation Fact Sheet